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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Applicant: Roberts et al.

Serial No.: 09/750,831

Filed: 12/28/00

For: A DEVICE FOR IMPEDING A ROUTE OF TRAVEL OF CRAWLING ARTHROPODS

Examiner: Varner

Group: 3635

Paper No.: __

Commissioner of Patents and Trademarks
Washington, D.C. 20231

MAILED: 4/17/02

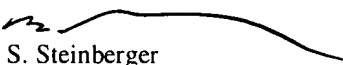
Honorable Commissioner:

I enclose

1. AMENDMENT RESPONSE
2. DECLARATIONS UNDER 37 CFR 1.131
3. PETITION TO EXTEND TIME
4. GOV. CHECK FOR \$55.00

Please enter the above correspondence.

Respectfully submitted,


Brian S. Steinberger
Attorney at Law
PTO Registration No. 36,423
101 Brevard Avenue
Cocoa, Florida 32922
(321) 633-5080
Facsimile (321) 633-9322

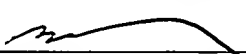
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CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner of Patents and Trademarks, Patent and Trademark Office, Washington, D.C. 20231.

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For: A DEVICE FOR IMPEDING A ROUTE OF TRAVEL OF CRAWLING
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RESPONSE

Commissioner of Patents

and Trademarks

Washington, D.C. 20231

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In response to the Office Action mailed December 18, 2001, please enter the following arguments. Favorable consideration of this application is respectfully requested in view of the following remarks.

Claims 1-7 and 12-15 were rejected under sec. 102e as being anticipated by Carman.
Claims 8-11 and 16-20 were rejected under sec. 103 as being unpatentable over Carman.

The Carman patent was filed on October 26, 1998 and issued on May 15, 2001. In effect, the Carman patent has an effective date of October 26, 1998. Applicant has provided a Declaration under 37 CFR 1.131 with this office action response. The Declaration clearly shows a reduction to practice of the subject invention which is prior to the effective date of October 26, 1998 for the Carman patent. In view of the Declaration, Carman should be removed as a


reference rejection under sec. 102e, and no longer be relevant prior art against the subject invention.

The remaining references to Manak and Ritter which were cited but not applied fail to describe, teach, nor suggest the claimed invention.

Applicant contends the references cannot be modified to incorporate the features of subject claims 1-20 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

In view of the foregoing considerations, it is respectfully urged that the subject amendment be entered and claims 1-20 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;



Brian S. Steinberger
Registration No. 36,423
101 Brevard Avenue
Cocoa, Florida 32922
Telephone: (321) 633-5080

Date 4/17/02